No. 80-195

SEP 5 1980

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

METROMEDIA, INC., *Appellant,*

v.

CITY OF SAN DIEGO, a municipal corporation, and DOES I through XX, inclusive, *Appellees.*

PACIFIC OUTDOOR ADVERTISING CO., INC., *Appellant,*

v.

THE CITY OF SAN DIEGO, a municipal corporation, THE CITY COUNCIL OF SAN DIEGO, VOYD BEIGHTS, Zoning Administrator of the City of San Diego and DOES 1 through 10, inclusive, *Appellees.*

On Appeal From The Supreme Court Of California

BRIEF OF THE OUTDOOR ADVERTISING ASSOCIATION OF AMERICA AS AMICUS CURIAE IN SUPPORT OF THE JURISDICTIONAL STATEMENT.

ERIC M. RUBIN

WOLF, BLOCK, SCHORR AND SOLIS-COHEN
1100 Connecticut Avenue, Suite 920
Washington, D.C. 20036
(202) 861-0870

Attorneys for the Outdoor Advertising Association of America, Amicus Curiae

September 4, 1980

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On Appeal From The Supreme Court Of California

BRIEF OF THE OUTDOOR ADVERTISING ASSOCIATION OF AMERICA AS AMICUS CURIAE IN SUPPORT OF THE JURISDICTIONAL STATEMENT.

INTEREST OF AMICUS CURIAE

Pursuant to Rule 42, the Outdoor Advertising Association of America has secured the consent of all parties to this litigation to the filing of this brief as AMICUS CURIAE. See Appendix A. The brief supports the appeal of Metromedia, Inc. and Pacific Outdoor Advertising Co., Inc., appellants, and urges that the decision of the Supreme Court of the State of California upholding the validity of an ordinance of the City of San Diego be reversed.

The Outdoor Advertising Association of America (OAAA) is the trade association of the standardized outdoor advertising industry. The Association represents a majority of the outdoor advertising companies in the United States. OAAA members maintain 229,000 outdoor advertising signs in 7,900 distinct local geographical areas throughout the United States. Seven OAAA member-companies, including the two appellants, maintain operations within the State of California. The Association's members are predominantly small, locally based family-owned businesses which typically provide services to contiguous geographic areas within a particular state. Other members are much larger and operate on a regional or national basis. The broad diversity and geographic coverage of outdoor advertising is reflected in the listing of OAAA members and the location of their principal offices contained in Appendix B.

The outdoor advertising industry has an intense interest in this case. The central issue before the Court is whether a municipality may use its police power to totally suppress outdoor advertising. The California Supreme Court has held that the First, Fifth and Fourteenth Amendments do not restrain such an exercise of authority. Therefore, this appeal will directly determine the future of this medium.

The Court's disposition of this appeal will have an immediate impact on the continued existence of the outdoor medium in California. 17 counties and 209 cities within the state have already completely prohibited outdoor advertising. These localities are listed in a letter from the California Department of Transportation contained in Appendix C. Many of these ordinances preclude billboards from localities which are particularly scenic or principally residential in character without ap-

preciable commercial or industrial activity and have not been directly challenged. As the Department indicates, there is also substantial litigation presently pending in the California Courts challenging restrictions which would either limit, or totally eliminate outdoor advertising from commercial or industrial areas in many major cities or counties within the state. Legislation similar to the San Diego ordinance is also under consideration in other California municipalities. The Court's disposition of this appeal will directly determine the validity of all of these measures and thus will have a decisive impact on whether the outdoor medium will be suppressed within California.

The implications of this case are equally decisive with respect to the continued viability of outdoor advertising throughout the United States. Many localities now permit outdoor advertising within narrowly defined areas, principally in commercial and industrial zones. e.g. City of Raleigh, North Carolina, Ordinance No. 982TC95, 1979. Nevertheless, outdoor advertising is regularly subject to efforts at its suppression. A suit challenging a law which prohibits outdoor advertising throughout the State of Maine is currently under review by the Court of Appeals for the First Circuit. See *John Donnelly & Sons et al.* v. *Roger L. Mallar*, (Civil No. 77-28450, D. Maine, Dec. 28, 1977) *appeal docketed* No. 791575, (1st Cir. 1979). The Court's disposition of the instant appeal will determine the scope of future regulation of outdoor advertising nationwide and the vulnerability of the medium to moves for its elimination.

Finally, aside from the strictly legal considerations involved, this appeal will have decisive effect on the broad range of business decisions which will also determine the extent to which the outdoor advertising in-

dustry will remain a significant medium. Simply stated, a legal environment which countenances the total abolition of outdoor advertising without just compensation for the loss of investment inevitably will chill the industry's access to capital. Indeed, such circumstances would compel many outdoor advertising companies themselves to seriously question whether they can continue to justify the expenditures necessary to maintain and improve existing sign structures when measured against alternative investment opportunities.

The OAAA respectfully submits this brief in support of the Jurisdictional Statement in the present case in order to bring to the Court's attention the views and arguments of the outdoor industry and to impress upon the Court the crucial importance of granting a full hearing in this matter.

ARGUMENT

I The Questions Raised By This Appeal Are Substantial And Require Full Review By The Court

This appeal warrants the Court's full review because it raises the crucial question of whether a major medium of communication can be wholly eliminated through police power regulation. The California Supreme Court has held that the Constitution imposes virtually no restraints against such actions and has sustained San Diego's complete prohibition of outdoor advertising. That decision conflicts sharply with a long line of decisions by this Court which reject the elimination of a distinct medium of communication. If the holding of the Court below is permitted to stand, the continued role of outdoor advertising as a major medium for the dissemination of protected expression is severely threatened.

The case is also compelling because it brings into focus the intrinsic importance under the First Amendment of each distinct medium of communication. The parties in this action have stipulated that "many businesses, politicians and other persons rely upon outdoor advertising because other forms of advertising are insufficient, inappropriate and prohibitively expensive." (A.125a-26a, J.S. 22, 23, 28)[1] Nevertheless, the Court below has held as a matter of law that media are fungible and that the mere existence of other modes of expression is sufficient to justify the suppression of a particular medium. Therefore, this case raises squarely the question of whether the complete prohibition of a particular medium is valid if other channels of expression are available.

This appeal also raises questions as to whether a medium which carries a broad spectrum of information may be properly characterized as a commercial medium for purposes of First Amendment analysis where a substantial portion of its content is not commercial in nature.

A full review of this appeal by the Court is crucial. The Court's summary dismissal of an earlier case, *Suffolk Outdoor Advertising Co.* v. *Hulse, 43 N.Y.2d 483, 373 N.E.2d 263, 402 N.Y.S.2d 368 (1977), app. dismissed*, 439 U.S. 808 (1978), involving an absolute ban on outdoor advertising has been viewed as controlling precedent by the court below as well as in recent decisions by other courts. See *Ackerley Communications, Inc.* v. *City of Seattle* 92 Wash.2d 905, 602 P.2d 1177 (1979). The Court has indicated that its summary dispositions of appeals have limited precedential value.

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[1] References to "A.____" are to appropriate pages of the Appendix to the Jurisdictional Statement; References to "J.S.____" are to the paragraph number of The Joint Stipulation of Facts set forth therein.

But the fact is that full review of this appeal is crucial in order to avert further retrogression in the lower courts of the protections accorded by the First and Fourteenth Amendments to each medium of communications. This appeal provides the Court with a uniquely suitable vehicle for clarifying the law in this regard because the extensive stipulations by the parties bring the legal issues into focus in a particularly undiluted fashion.

II Outdoor Advertising Is A Major Medium Of Communications With Unique Characteristics Which Expand The Opportunities For Protected Expression Beyond Those Provided By Other Media.

Outdoor advertising has been a principal means for the public dissemination of commercial and noncommercial information in the United States since the inception of this country. *See*, DAVIDSON, PROPAGANDA AND THE AMERICAN REVOLUTION (Univ. of No. Carolina Press 1941); GALLO, THE POSTER IN HISTORY (American Heritage Pub. Co. 1972) HOUCK, OUTDOOR ADVERTISING: HISTORY AND REGULATIONS, (Univ. of Notre Dame Press 1969), Chap. 2. The outdoor medium has remained a primary channel for communication despite strong competitive pressure from other media. The reasons that outdoor advertising has retained its significance have a direct bearing on this case.

The other principal communications media including television, radio, direct mail, newspapers and magazines are classified as "in-home" media because they reach their audience in the privacy of the home or workplace. By contrast, outdoor advertising is classified as an "out-of-home" medium because it is predicated on the dissemination of information in a public forum.

Advertising Age, "Out-of-Home Media Supplement," March 10, 1980. This inherent public character is the key to the continued significance of outdoor advertising.

Because it is predicated on public exposure, outdoor advertising quantitatively *expands* the spectrum of opportunities for the dissemination of information beyond those afforded by in-home media. As a result, outdoor advertising is often used in conjunction with other media to extend the potential for exposure of a particular message. Moreover, outdoor advertising often supplants the in-home media because of the broad exposure which can be achieved through public dissemination. Although other media such as transit posters and leaflets are also based on public dissemination, outdoor advertising is generally regarded today as the primary out-of-home media because of its greater potential for exposure and capacity to communicate effectively. *Advertising Age, Id.*

The public character of outdoor advertising also permits the dissemination of information at considerably lower cost than high impact in-home media. The fact that the outdoor medium utilizes a public forum permits broad audience exposure with very few signs. This contrasts sharply with the high costs required by in-home media which essentially communicate on an individualized basis. MEDIA MARKET GUIDE, 233 (Summer 1978). As a result, outdoor advertising is used by a broad spectrum of advertisers including businesses and diverse interests like those which sponsored the particularized messages contained in Appendix I to the Jurisdictional Statement. As the parties have stipulated, if outdoor advertising was completely supressed many of these persons would be prevented from achieving meaningful dissemination to the public since other media are

wholly unsuitable, or prohibitively expensive. (A.125a-26a, J.S. 28)

Outdoor advertising has retained its significance because like every other medium, it has certain distinct capabilities and characteristics which make it unique. For example, the fixed written and pictorial copy on a billboard is evocative in a different manner than the communication achieved through the broadcast media. A political advertisement on radio must be structured differently in order to have the same impact as written outdoor copy. The simple declaratory statement "Vote for Democrats" would command little attention when disseminated by radio because the auditory experience is essentially transitory. But the same message would be fully absorbed if it appeared on a billboard. Indeed, there are differences between print media. This simple written statement would have a different impact commingled with other copy in a newspaper than it would standing alone on a billboard. See, SCHWARTZ, THE RESPONSIVE CHORD, (Doubleday 1974). By the same token, each medium has certain limitations. A billboard would have little value for disseminating a complex explanation of a particular plank in the 1980 Republican platform. Direct mail would be a far more appropriate medium for such information.

Outdoor advertising has remained a major medium despite the sharp reduction in locations where billboards can be sited due to governmental regulation.[2] These pressures have forced the evolution of an operating format which yields high impact with relatively few signs. The industry has standardized billboards in two basic

[2] The General Accounting Office has reported that the Federal Highway Beautification Act has alone caused the removal of 440,000 outdoor advertising signs as of March 31, 1977. *GAO Report To Congress*, March 27, 1978.

sizes. They are a 12'x25' poster panel which uses mass printed copy, and a 14'x48' bulletin which usually is custom painted for each message. A sophisticated statistical analysis has also been developed which enables each outdoor advertising company to determine the size and demographic characteristics of the potential audience exposure for each of its signs. The potential for exposure is further maximized by rotating the same message between structures at different locations. The net result is that a message can be precisely targeted to a specific limited audience using only a few signs. Such exposure can be achieved on a local, regional, or national basis. The extraordinary efficiency of the medium is reflected by the fact that the 229,000 standardized billboards in the United States yield 109,912,667 adult exposure opportunities in any given day. Simmons Market Research Bureau, Inc. *The 1979 Study of Media and Markets — Outdoor Advertising.*

The fact is that outdoor advertising has remained viable because it is a unique medium and because the means for communication to the public remain essentially a scarce resource. The total suppression of outdoor advertising would necessarily constitute a qualitative and quantitative diminution of those limited resources for expression.

III A Total Prohibition of Outdoor Advertising Violates The First Amendment.

A. The Abolition Of The Outdoor Medium Is An Invalid Exercise Of The Police Power.

This Court's decisions regarding the invalidity of police power restraints on a means of communication reflect a careful effort to husband what are essentially limited channels for public expression. The Court has

consistently rejected measures which would totally prohibit a medium for the dissemination of protected speech. *Lovell* v. *City of Griffin, Georgia,* 303 U.S. 444, 452 (1938) (invalidating ban on distribution of circulars, handbooks, advertising or literature of any kind); *Schneider* v. *New Jersey,* 308 U.S. 147 (1939) (handbills); *Martin* v. *Struthers, Ohio,* 319 U.S. 141, 143 (1943) (door-to-door solicitation); *Saia* v. *People of New York,* 334 U.S. 558 (1948) (sound trucks); *Police Department of Chicago* v. *Mosley,* 408 U.S. 92 (1972) (picket signs); *Erznoznik* v. *City of Jacksonville,* 422 U.S. 205 (1975) (exhibition of nudity at drive-in movie theaters). The Court has upheld less encompassing controls only where the government can show that the measure is the least restrictive means of serving a compelling interest. Cf. *First National Bank of Boston* v. *Bellotti,* 435 U.S. 765 (1978); *Buckley* v. *Valeo,* 424 U.S. 1, 25 (1976) (per curiam). The decision of the Court below conflicts directly with this clear precedent.

The California Supreme Court seeks to rationalize San Diego's ban in part by attempting to distinquish billboards from the other media at issue in this Court's earlier decisions. The Court below asserts that "billboards are large immobile permanent structures and therefore different than other media such as leaflets, newspapers and the like," which are "more transitory or less obtrusive media." (A.24a) The California Court reasons that these factors remove outdoor advertising from the penumbra of the First Amendment and make its control subject solely to zoning considerations. This conclusion simply cannot withstand the force of the First Amendment.

Many of the decisions by this Court rejecting the validity of various bans on a medium of expression have

involved media which, like billboards are public in character. Like the San Diego measure, the enactments which established those prohibitions were predicated on a perception that the medium at issue was in some way bothersome or intrusive. Nevertheless, in each case, the Court made clear that the public character of the medium alone does not provide a rationale which completely negates First Amendment protections.

> "Any abuses which loud-speakers create can be controlled by narrowly drawn statutes. When a city allows an official to ban them in his uncontrolled discretion, it sanctions a device for suppression of free communication of ideas." *Saia* v. *New York, supra,* at 562.

Indeed, streets and highways, which provide the principal forum for outdoor advertising, have been given special protection for the dissemination of protected expression. E.g., *Hague* v. *CIO,* 307 U.S. 496, 515, 516 (1939); *Baldwin* v. *Redwood City,* 540 F2d 1360, 1368 (9th Cir. 1976); *Washington Mobilization Committee* v. *Cullinane,* 566 F2d 107, 119 (D.C. Cir. 1977); *North Shore Right to Life Committee* v. *Manhasset American Legion Post No. 304,* 452 F. Supp. 834, 838 (E.D.N.Y. 1978).

Implicit in the San Diego ordinance is a policy which subordinates First Amendment values to unsubstantiated considerations regarding traffic safety and aesthetics in commercial and industrial zones. The Courts have consistently held that these and other seemingly more compelling governmental purposes are insufficient to outweigh First Amendment considerations. *Erznoznick* v. *City of Jacksonville, supra.* Significant governmental interests that have been rejected in other cases include:

—Maintenance of stable, racially integrated housing ("For Sale" signs). *Linmark Associates, Inc.* v. *Township of Willingboro,* 431 U.S. (1977);

—Protection of customers' health (drug price advertising). *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council,* 425 U.S. 748 (1976);

—Traffic safety (newspaper seller's license). *Wulp Corcoran,* 454 F.2d 826, 834 (1st Cir. 1972);

—Traffic safety (political signs), *Baldwin* v. *Redwood City,* 540 F.2d 1360, 1373 (9th Cir. 1976); *Gannett Co.* v. *Rochester,* 69 Misc. 2d 619, 330 N.Y.S. 2d 648 (1972) (newspaper vending machine.);

—Transit passenger safety and convenience (newspaper sales). *Wright* v. *Chief of Transit Police,* 558 F.2d 67, 68 (2d Cir. 1977);

—Preventing littering (handbills). *New York* v. *Remeny,* 40 N.Y.2d 527, 355 N.E.2d 375 (1976).

Amicus certainly would not contend that at some level of regulation considerations such as aesthetics and traffic safety provide the basis for the specific regulation of outdoor advertising. However, as is more fully discussed below, the San Diego ordinance is not bottomed on such a measured "least restrictive" approach. Instead, the city has adopted an undifferentiating policy which decimates an entire medium.

B. The San Diego ordinance cannot be sustained as an appropriate time, place and manner restriction on protected expression.

The California Court's decision further seeks to rationalize the San Diego ordinance as a proper time, place and manner restriction. *Virginia State Board of*

Pharmacy v. *Virginia Citizens Consumer Council, Inc., supra.* As the Jurisdictional Statement points out, the San Diego ordinance cannot be justified on that basis because alternative channels of expression are insufficient and the ordinance is not "content neutral" because it would permit signs carrying messages pertaining to commercial activities within the premises on which they are located while prohibiting the dissemination of other information. However, without regard to the substance of the San Diego ordinance, it must be emphasized that time, place and manner analysis does not provide a rationale for the total prohibition of an entire medium. This issue was firmly laid to rest by the Court in *Linmark Associates, Inc.* v. *Township of Willingboro, supra,* the central case relied upon by the Court below. There a local government sought to promote stable racially intergrated housing by banning on-premises "For Sale" signs. The Court responded to this closely analogous prohibition stating, "That the proscription (on "For Sale" signs) applies only to one mode of communication, therefore, does not transform this into a 'time, place or manner' case." *Id.* at 94.

Likewise, the Court has made it clear that the mere availability of alternative channels for expression does not turn a prohibitive statute into a valid time, place or manner restriction.

> Although in theory. sellers remain free to employ a number of different alternatives, in *practice realty is not marketed through leaflets, sound trucks, demonstrations or the like.* The options to which sellers realistically are relegated—primarily newspaper advertising and listing with real estate agents—*involve more costs* and less autonomy than "For Sale" signs; are *less likely to reach persons not deliberately seeking information; and may be*

> *less effective media for communicating the message* that is conveyed by a "For Sale" sign in front of the house to be sold. *The alternatives, then, are far from satisfactory.* (Citations omitted.) *Id.* at 93.

Contrary to the California Court's analysis, what is most certainly *not* meant by alternative channels is that there may be one or more other means of communicating the message. This Court has emphasized that speech may not be abridged because "the speaker's listeners could come by his message by some other means." *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc., supra* at 757, n.5. Liberty of expression may not be curtailed on the basis that it may be exercised in some other place. *Schneider* v. *New Jersey, supra; Southeastern Promotions, Ltd.* v. *Conrad,* 420 U.S. 546, 556 (1975). Most recently the Court has stated.

> "Although a time, place, and manner restriction cannot be upheld without examination of alternative avenues of communication open to potential speakers . . . We have consistently rejected the suggestion that a government may justify a content-based prohibition by showing that speakers have alternative means of expression. (Citations omitted) *Consolidated Edison Company of New York, Inc.* v. *Public Service Commission of New York,* _____U.S._____, 100 S. Ct. 2326, 2335 n. 10 (1980).

The facts of this case show that elimination of outdoor advertising in San Diego in real terms reduces the opportunities for the effective dissemination of protected expression. This negates any consideration of the City's ordinance as a reasonable time, place and manner restriction.

IV The San Diego Ordinance is not a Valid Restriction of Commercial Speech.

A. Outdoor advertising is not purely a commercial medium.

In its decision, the Court below treats outdoor advertising as a medium for commercial speech. It is true that a significant proportion of the information disseminated in outdoor advertising is commerical in the sense that it "relates solely to the economic interests of the speaker and its audience." *Central Hudson Gas and Electric Corporation* v. *Public Service Commission of New York*, _____U.S. _____, 100 S. Ct. 2343, 2349 (1980). But the stipulated record makes clear that a substantial component of outdoor advertising is political and social information and does not strictly relate to commercial interests. Therefore, the mixed commercial, political and social information disseminated through outdoor advertising in San Diego removes this case from consideration in terms of a purely commercial speech analysis.

B. The Prohibition of outdoor advertising cannot be justified under a commercial speech analysis.

The recent decisions of this Court firmly established that even a purely commercial medium may not be suppressed under the circumstances presented by this case—if, indeed, such a prohibition is ever valid. In its recent decision in *Central Hudson, supra,* the Court summarized a four-step analysis for determining whether a particular restriction on commercial speech is invalid under the First Amendment.

At the outset, we must determine whether the expression is protected by the First Amendment. For

> commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest. *Id.* at 4785.

The San Diego ordinance does not survive scrutiny under this standard. The first two criteria are not at issue here. The record establishes that the billboards at issue in this case were lawfully erected under applicable law. There is no suggestion that the messages disseminated on the signs were unlawful, fraudulent, or misleading. However, San Diego's ordinance fails under the two remaining standards.

While the City may well have a general interest in aesthetics or traffic safety, the record in this case is completely devoid of any factual substantiation that the total elimination of billboards directly advances these interests. As emphasized in appellant's Jurisdictional Statement, any nexus between the San Diego ordinance and these policies is based wholly on supposition. There is no evidence in the record that outdoor advertising has been the cause of traffic accidents in San Diego. There is no explanation of how safety will be enhanced by singling out billboards from the myriad of other more pervasive urban distractions including the far greater number of on-premise signs. Likewise, based on the record, it is difficult to envision how the total elimination of billboards will have an appreciable impact on the aesthetics of the City of San Diego. The connection to aesthetics is particularly attenuated when it is recognized that the billboards at issue are already confined to the

commercial and industrial zones which comprise 2.8% of that City and that the ordinance does not attempt more comprehensive controls on the broad range of visual intrusions in those areas.

It strains credulity to think that San Diego's total prohibition is "no more extensive in scope than necessary to further the state's interest" in traffic safety or aesthetics. In *Central Hudson, supra*, the Court imposed a heavy burden on any restriction of commercial speech, requiring that the government must make an affirmative showing that a more limited restriction would not be adequate to protect the state's interest. "In the absence of a showing that more limited speech regulation would be ineffective, we cannot approve the complete suppression of Central Hudson's advertising." *Central Hudson* at 4787. The City has made no such demonstration, nor has it shown why lesser alternatives to complete suppression are inadequate. Such alternatives may be readily envisioned. The City could determine whether certain specific billboards actually pose a hazard to traffic and order their removal. In response to aesthetic concerns, an ordinance could set limitations on the spacing between billboards where there is a concrete reason to mitigate their impact. See *Young* v. *American Mini Theaters Inc.*, 427 U.S. 50 (1976). But the California Supreme Court's decision upholding San Diego's total, undiscerning suppression and its consequent impact on protected expression cannot be sustained on the basis of speculative and subjective notions of what might advance public policy.

CONCLUSION

The questions presented by this appeal are substantial. Probable jurisdiction should be noted and the case set down for argument.

Respectfully submitted,

ERIC M. RUBIN

WOLF, BLOCK, SCHORR AND SOLIS-COHEN
1100 Connecticut Avenue, Suite 920
Washington, D.C. 20036
(202) 861-0870

Attorney for Amicus Curiae

September 4, 1980

APPENDIX

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APPENDIX A

CAHILL GORDON & REINDEL

EIGHTY PINE STREET
NEW YORK, N.Y. 10005

September 2, 1980

Re: *Metromedia, Inc.* v. *City of San Diego*

80-195

Dear Mr. Rubin:

This will confirm that, on behalf of appellants Metromedia, Inc. and Pacific Outdoor Advertising Co., Inc., we consent to the filing of a brief *amicus curiae* on behalf of the Outdoor Advertising Association of America in the above appeal.

Sincerely,

/s/ FLOYD ABRAMS

ERIC M. RUBIN, ESQ.
WOLF, BLOCK, SCHORR
AND SOLIS-COHEN
1100 Connecticut Avenue,
N.W.
Washington, D.C. 20036

WOLF, BLOCK, SCHORR AND SOLIS-COHEN
NINTH FLOOR
1100 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036

August 14, 1980

C. Alan Sumption
Deputy City Attorney
233 A Street
Suite 300
San Diego, California 92101

Dear Mr. Sumption:

I am counsel to the Outdoor Advertising Association of America. I am writing on behalf of the Association to request the consent of the City of San Diego to file a brief amicus curiae before the Supreme Court of the United States in *Metromedia, Inc. et al.* v. *The City of San Diego et al.* Because of the tight time constraints imposed by the Supreme Court on filing the amicus briefs, I would appreciate your prompt response to my request.

Sincerely,

/s/ ERIC M. RUBIN
For Wolf, Block, Schorr
and Solis-Cohen

EMR: cak

8/15/80 Consent granted. C-Alan Sumption

APPENDIX B

Membership Of The Outdoor Advertising Association Of America, Inc.

ABC Outdoor Advertising, Inc.
Pewaukee, WI

Ackerley Communications, Inc.
Seattle, WA

Acme Poster Advertising Co.
Natchitoches, LA

Action Outdoor Advertising
Bryan, TX

Adams Outdoor Advertising, Inc.
Yadkinville, NC

Alabama Outdoor Advertising Co.
Birmingham, AL

Alleghany Poster Advertising Co.
Terra Alta, WV

Allen Outdoor Advertising
Waco, TX

Allison Outdoor Advertising
Sylva, NC

Americus Poster Advertising Co.
Waynesboro, GA

Appalachian Poster Adv. Co., Inc.
Lenior, NC

Austin Poster Advertising Co.
Effingham, IL

B & B Outdoor Advertising
Shreveport, LA

Barrett Outdoor Communications
Milford, CT

Bay Poster Advertising Co.
Ashland, WI

Big Tex Outdoor Advertising, Inc.,
Brownwood, TX

Blocher Outdoor Adv. Co., Inc.
St. Cloud, MN

Bocook Outdoor Media, Inc.
Anderson, SC

Burkhart Advertising, Inc.
South Bend, IN

Buts Outdoor
Fond Du Lac, WI

C & U Poster Advertising Co.
Champaign, IL

Maurice Callahan & Sons
Pittsfield, MA

Cannon Advertising Co.
Murfreesboro, TN

Carlson Outdoor Advertising
Rock Island, IL

Carolina Displays, Inc.
Raleigh, NC

Central Advertising Co.
Lansing, MI

Central Georgia Advertising Co.
Waynesboro, GA

Charleston Advertising Co., Inc.
Charleston, SC

Colony Advertising, Inc.
Richmond, VA

Columbia Outdoor Advertising, Inc.
Columbia, SC

The Columbus Outdoor Adv. Co.
Columbus, OH

Crawford Advertising of Mississippi, Inc.
Gulfport, MS

Creative Displays, Inc.
Tuscaloosa, AL

Creel Outdoor Advertising
Florence, SC

Cunningham Advertising, Inc.
St. Bonifacius, MN

W.L. Denny Outdoor Advertising
Columbus, OH

Derby Outdoor Advertising
Rapid City, SD

The Derse Company
Milwaukee, WI

Dingeman Advertising, Inc.
Traverse City, MI

Display, Inc.
Waterloo, IA

Display Media
Baraboo, WI

John Donnelly & Sons
South Portland, ME

Donrey Outdoor Advertising Co.
Little Rock, AK

Dowie Outdoor, Inc.
Cedar Rapids, IA

Duplex Advertising Co.
Austin, TX

Estus Outdoor Advertising Co.
Savannah, GA

Fabian Advertising, Inc.
Herman, MN

Fendig Outdoor Advertising Co.
St. Simons Island, GA

Flynn Outdoor Advertising
Sioux City, IA

Flynn Outdoor Advertising
Sioux Falls, SD

Flynn Outdoor Advertising
Sheboygan, WI

Foster and Kleiser
Los Angeles, CA

Finney Outdoor Advertising Corp.
Fall River, MA

French Advertising
Fond Du Lac, WI

Gannett Outdoor Advertising Group
Phoenix, AZ

Georgia Outdoor Advertising, Inc.
Athens, GA

Ghaster Outdoor Advertising, Inc.
Lima, OH

Giddings Outdoor Advertising Service
Carrollton, KY

Green Bay Poster Advertising
Green Bay, WI

Griese Companies, Inc.
New Canaan, CT

H & V Advertising Co.
Rusk, TX

Hale Poster Advertising Co.
Iron Mountain, MI

Hansen Advertising Company, Inc.
Madison, WI

Frank Hardie Advertising, Inc.
Dubuque, IA

Harris Poster Advertising Co.
Griffin, GA

The Hathaway Advertising Co.
New Bedford, MA

Hausen Poster Advertising Co.
Fort Atkinson, WI

Hemmert Outdoor Advertising Co.
Sidney, OH

Heywood Company Outdoor Adv. of California
San Bernardino, CA

Holland Advertising Co.
Beaumont, TX

Hoosier Outdoor Advertising Corp.
Bloomington, IN

Illinois Poster Advertising Co.
Sterling, IL

Imperial Outdoor Advertising, Inc.
Lincoln, NE

Jackson Outdoor Advertising, Inc.
Michigan City, IN

Jackson Poster Advertising System
Charlottesville, VA

Johnstown Poster Advertising Co.
Johnstown, PA

Kanawha Valley Advertising Co.
Charleston, WV

Keleher Outdoor Advertising
Bartlesville, OK

Kenosha Advertising Co.
Kenosha, WI

Key Outdoor, Inc.
Kankakee, IL

Krain Outdoor Advertising
Cheltenham, PA

The Lamar Corporation
Baton Rouge, LA

Lamar Outdoor Advertising, Inc.
Jackson, MS

Jules Lauve, Jr., Inc.
Galveston, TX

Louisiana Sign Company, Inc.
Sulphur, LA

M & C Company
Eagle Grove, IA

McWhorter Advertising Corp.
Bridgeport, WV

Major Media, Inc.
Eden Prairie, MN

Marden Advertising Co.
Duncan, OK

Martin Communications, Inc.
Los Angeles, CA

Mathey-Strong, Inc. Outdoor Advertising
Peoria, IL

The R.C. Maxwell Company
Trenton, NJ

Miller Outdoor Advertising, Inc.
Laurens, SC

Missouri Valley Poster Advertising Co.
Falls City, NE

Modjeska Sign Studios, Inc.
Kingston, NY

Morgan Signs, Inc.
State College, PA

Moynihan Outdoor Advertising, Inc.
Princeton, IL

Murphy Advertising Co.
Waterbury, CT

Murphy Incorporated
Bridgeport, CT

Myhre Advertising
Great Falls, MT

Naegele Outdoor Advertising Co. of the Twin Cities, Inc.
Minneapolis, MN

Nauman Outdoor Advertising Co.
Lancaster, OH

Newman Outdoor Advertising
Jamestown, ND

Northern Illinois Outdoor Advertising Co.
Freeport, IL

Norton Outdoor Advertising, Inc.
Cincinnati, OH

Norwood Advertising, Co.
Brady, TX

Ohio Outdoor Advertising Corp.
Fremont, OH

Orde Advertising Co.
Green Bay, WI

Outdoor Communications, Inc.
Corinth, MS

Outdoor Suburban
Corsicana, TX

Outdoor West, Inc.
Tri-Cities, TN

Owens Outdoor Advertising
Van Wert, OH

Ozark Poster Advertising Co.
Harrison, AK

PBM Advertising Co.
Vienna, WV

Park Outdoor Advertising
Ithica, NY

Patrick Outdoor Media, Inc.
Dunmore (Scranton), PA

Penn York Advertising, Inc.
York, PA

Philadelphia Outdoor
Gladwyne, PA

Piedmont Outdoor Advertising Co.
Greensboro, NC

Pittsburgh Outdoor Advertising
Pittsburgh, PA

Pocono Outdoor Advertising Co.
Bangor, PA

Port Arthur Poster Advertising Co.
Port Arthur, TX

Porter Poster Service
Richmond, IN

Racine Advertising Co.
Kenosha, WI

Reading Outdoor Advertising Co.
Centralia, IL

Reagan Outdoor Advertising, Inc.
Salt Lake City, UT

Richards of Course, Inc.
Syracuse, NY

Robbinswood, Inc.
Rockford, IL

Rochester Outdoor Advertising
Rochester, NY

Root Outdoor Advertising, Inc.
Toledo, OH

Sapp Outdoor Advertising Co.
Statesboro, GA

Schloss Outdoor Advertising Co.
Charlotte, NC

Schwab Advertising System, Inc.
Davenport, IA

Shaw Poster Advertising Co.
Grand Forks, ND

Silsbee Poster Advertising Co.
Port Arthur, TX

Skoglund Communications, Inc.
La Crosse, WI

Smith Advertising Co.
Petersburg, VA

Southern Ohio Outdoor Advertising Co., Inc.
Hillsboro, OH

Spomer Outdoor, Inc.
Joplin, MO

Springfield Advertising Co.
Springfield, MA

Springfield Outdoor Advertising Co.
Springfield, OH

Staff Outdoor Advertising
East Liverpool, OH

Stait Outdoor Advertising Company
Philadelphia, PA

Standard of Appleton, Inc.
Appleton, WI

Standish-Johnson Company
Providence, RI

State Outdoor Advertising, Inc.
Gary, IN

H.A. Steen Industries, Inc.
Philadelphia, PA

Stewart Poster Advertising
Clinton, IA

Jay B. Stott Outdoor Advertising
Chico, CA

Summey Sign & Outdoor Advertising Co.
Black Mountain, NC

Sunrise Outdoor Advertising, Inc.
Garden City, NY

Texas United Outdoor Advertising Co., Inc.
Fort Worth, TX

Turner Advertising Co.
Atlanta, GA

Van Wagner Advertising Corp.
Jamaica, NY

Victor Sign Corporation
Chicago, IL

Virginia Outdoor, Inc.
Lynchburg, VA

Vivid, Inc.
Janesville, WI

Vogel Outdoor Advertising
Rochester, MN

Wardlow Advertising Co.
Waynesboro, GA

Waycross Outdoor Advertising Co.
St. Simons Island, GA

Weatherby Advertising Company
Jefferson City, MO

Western Advertising System
Abilene, TX

Whiteco Metrocom
Merrillville, IN

Whitehead Outdoor
Silver Spring, MD

Whitmier & Ferris Company, Inc.
Buffalo, NY

Woodie Outdoor Advertising Co., Inc.
Bluefield, WV

Y-Knot Outdoor Advertising, Inc.
Chariton, IA

APPENDIX C

STATE OF CALIFORNIA — BUSINESS AND TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
1120 N Street
Sacramento, California 95814

August 7, 1980

Vernon A Clark
President
Outdoor Advertising Association of America
Suite 403,
1899 L Street, N.W.
Washington, D.C. 20036

Re: Local Ordinances Prohibiting Signs

Dear Mr. Clark:

This letter is in response to your inquiry (made through Ronald W. Beals, attorney for the California State Outdoor Advertising Association) whether the Outdoor Advertising Section of the California Department of Transportation has any information concerning control of signs by cities and counties.

The Outdoor Advertising Section is charged with enforcement of the State Outdoor Advertising Act (Bus & Prof Code Sec. 5200 et seq). This includes provisions adopted pursuant to federal law (the 1958 Bonus Act and the 1965 Penalty Act, found at 23 U.S.C. 131), as well as additional state regulations.

We are concerned with local ordinances for several reasons mainly: (1) Outdoor Advertising permits can only be issued in 49 counties and 108 cities with receipt of a Certificate Zoning Compliance (CZC) and (2) signs along Interstate and Primary Highways can only be placed in areas zoned for commercial or industrial purposes. Additionally, as my Section receives many general inquiries about sign law we

have become familiar with the sign regulation provisions of many ordinances.

In order to facilitate our activities, we have attempted to keep a current copy of every California city and county ordinance dealing with regulation of Outdoor Advertising. We currently have approximately 470 such ordinances on file.

I have reviewed these ordinances to see how many totally prohibit new signs. I have found 209 ordinances prohibit all new signs. Attached are lists of the counties and cities which in my opinion contain prohibitory ordinances.

Please note that I am neither an attorney nor have I asked for a complete legal review on each ordinance. This is my best opinion; I make no judgment on the enforceability of any of these ordinances nor do I personally know how they are actually enforced. Additionally, I have not included cities and counties whereas a matter of fact signs may not be built, but where the ordinance would in theory allow them. I am reasonably confident that this list is up to date and accurate.

If I can be of any further assistance to you, please feel free to call on me.

Very truly yours,

/s/ STAN LANCASTER
Stanley Lancaster
Chief, Outdoor Advertising Section

Enclosure

Cities — Prohibitory Ordinances

Alameda
Angels
Arcadia
Arcata
Atherton
Atwater
Auburn
Avalon
Belmont
Belvedere
Berkeley
Beverly Hills
Bradbury
Brea
Brentwood
Brisbane
Buena Park
Burlingame
Camarillo
Campbell
Capitola
Carlsbad
Carmel-By-The-Sea
Carpinteria
Ceres
Cerritos
Chico
Chino
Chula Vista
Claremont
Cloverdale
Coachella
Colfax
Colma
Compton
Corona
Coronado
Corte Madera
Costa Mesa
Cupertino
Cypress
Davis
Del Mar
Desert Hot Springs
Duarte
El Cajon
El Cerrito
El Segundo
Emeryville
Escondido
Fairfax
Fairfield
Fillmore
Folsom
Fontana
Foster City
Fountain Valley
Fremont
Fullerton
Gardena
Gilroy
Glendora
Grand Terrace
Grass Valley
Gustine
Half Moon Bay
Hanford
Hayward
Healdsburg
Hemet
Hercules
Hermosa Beach

Hidden Hills
Hillsborough
Huntington Beach
Imperial Beach
Indian Wells
Indio
Irvine
Jackson
Kerman
King
La Canada Flintridge
Lafayette
Laguna Beach
La Habra
La Habra Heights
La Palma
La Puente
La Verne
Livermore
Livingston
Loma Linda
Lomita
Los Alamitos
Los Altos
Los Altos Hills
Los Banos
Los Gatos
Madera
Manhattan Beach
Manteca
McFarland
Menlo Park
Merced
Mill Valley
Millbrae
Milpitas
Modesto
Monrovia
Montclair
Monterey
Moraga
Mountain View
Napa
National City
Nevada City
Newark
Newman
Newport Beach
Norco
Novato
Ojai
Ontario
Orange
Oxnard
Pacifica
Pacific Grove
Palm Desert
Palm Springs
Palo Alto
Palos Verdes Estates
Pico Rivera
Piedmont
Pismo Beach
Placentia
Pleasant Hill
Pleasanton
Porterville
Port Hueneme
Portola Valley
Rancho Cucamonga
Redlands
Redwood City
Rolling Hills
Rolling Hills Estates
Rosemead
Salinas

San Anselmo
San Clemente
San Dimas
San Gabriel
San Juan Capistrano
San Luis Obispo
San Marcos
San Marino
San Mateo
San Rafael
Santa Cruz
Santa Maria
Santa Paula
Santa Rosa
Saratoga
Sausalito
Seaside
Sebastopol
Sierra Madre
Signal Hill
Simi Valley
Sonoma
Sonora
South Pasadena
Sunnyvale
Temple City
Thousand Oaks
Tracy
Tulare
Turlock
Tustin
Union City
Upland
Ventura (San Buenaventura)
Visalia
Vista
Walnut
Walnut Creek
West Covina
Woodlake
Woodland
Yorba Linda

Counties — Prohibitory Ordinance

Amador
Calaveras
Inyo
Lake
Marin
Mariposa
Monterey
Napa
Nevada
Placer
San Luis Obispo
Santa Cruz
Solano
Sonoma
Tuolumne
Ventura
Yolo

Counties With Lawsuit

Los Angeles
Orange
Riverside
San Diego
San Francisco

Cities With Lawsuit

Chula Vista
Costa Mesa
El Cajon
Huntington Beach
La Habra
Palm Desert
Rancho Mirage
Alameda
Brisbane
Glendale
La Mesa
Pomona
San Diego
San Francisco
Santa Paula
Santa Cruz
Berkeley
Hayward
Mountain View
Oakland
San Rafael
Arcata
Carpenteria
Modesto
Salinas
Santa Barbara
Madera
Visalia
Coachella